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Chairman: Mr. Tomka ..... (Slovakia)

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The meeting was called to order at 10.07 a.m.

Agenda item 151: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization *(continued)* (A/52/33, A/52/308, A/52/317)

1. **Mr. Daniell** (South Africa) said that the Special Committee could and should play a more effective role in the strengthening, revitalization and reform of the United Nations. Although conference servicing facilities were limited, the Special Committee would benefit from having its annual session later in the year. Delegations would then have sufficient time to submit comments on the Special Committee's work. The Special Committee should attempt to revitalize and review the items it currently dealt with.

2. The implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions was one of the most important matters under consideration by the Special Committee. Like India, South Africa believed that the most appropriate course was to continue consideration of the issue within a working group of the Committee in which Member States would continue their consideration of the report of the Secretary-General (A/52/308).

3. The draft declaration, submitted by the Russian Federation, on the basic principles and criteria for the work of the United Nations peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts (A/51/33, para. 128) contained innovative ideas. It included some legal provisions, and a number of issues which were essentially of an operational and political nature. The Special Committee on Peacekeeping Operations would be the most appropriate Committee in which to consider that important issue.

4. South Africa supported the proposal made by Portugal to amend rule 103 of the rules of procedure relating to the election of officers to the Main Committees of the General Assembly. The bureau of each Committee could then deal more effectively with its work, ensuring respect for the principle of equitable geographical distribution.

5. Although his delegation was not, in principle, opposed to the abolition of the Trusteeship Council, it felt that there was no urgent need to take such measures at the current time. Malta's proposal to convert the Trusteeship Council into a body to coordinate the common heritage of mankind was interesting, but could give rise to duplication of work with the United Nations Environment Programme (UNEP) and the International Seabed Authority.

6. Mexico's proposal for a review of ways and means of strengthening the International Court of Justice would be a welcome addition to the Special Committee's agenda, since it would demonstrate that the Court needed additional resources to fulfil its mandate effectively. The Special Committee should take its direction from the comments of the Court on that issue. There did not seem to be support for extending the jurisdiction of the Court, as proposed by Guatemala, which would also necessitate an amendment of the Charter.

7. South Africa attached particular importance to expediting the preparation and publication of supplements to the *Repertory of Practice of United Nations Organs* and the *Repertoire of Practice of the Security Council*, which represented the institutional memory of the activities of the United Nations and were of great practical benefit to Member States. In view of the delay in the circulation of the report of the Secretary-General (A/52/317), his delegation could make only preliminary comments at the current stage. Although progress had been made in bringing the *Repertory* and *Repertoire* up to date, the main constraint preventing the speedy completion of those publications continued to be the lack of human and financial resources. His delegation took note of the proposal of the Secretary-General to merge the *Repertory* and the *Repertoire*, which could be a cost-effective measure, but felt that more time was needed to consider its implications.

8. **Mr. Ahmad** (Malaysia) said that Article 50 of the Charter of the United Nations clearly stipulated that States which were confronted with special economic problems arising from the carrying out of sanctions had the right to consult the Security Council. The issue had been considered in the General Assembly for many years, and at its fifty-first session the General Assembly had adopted resolution 51/208 of 17 December 1996. That resolution had assisted the Secretary-General in carrying out action in that field. The report of the Secretary-General (A/52/308) indicated the arrangements that had been made in accordance with the provisions of paragraphs 4 to 8 and 12 of General Assembly resolution 51/208. However, despite the willingness of the Secretary-General to put those arrangements into effect, no request had been made by the Security Council to that effect. After many years of consultations some Member States still believed that Article 50 of the Charter did not provide the right to compensation to third States affected by the imposition of sanctions.

9. The methodology used for assessing the consequences of sanctions for third States should be accurate and transparent, based on a common approach and an understanding of the issues involved. His delegation supported the continued efforts of the Department of Economic and Social Affairs to develop a methodology for assessing the consequences of sanctions, and welcomed the convening of an ad hoc expert group meeting in 1998. Malaysia endorsed the position of the Movement of Non-Aligned Countries in the New Delhi Declaration, of April 1997, that sanctions must be used only as a last resort, after all other measures had proved inadequate.

10. His delegation took note of the Secretary-General's proposal in his report on the reform of the United Nations, of 14 July 1997, that the Trusteeship Council should be reconstituted as a forum through which Member States could exercise their collective trusteeship for the integrity of the global environment. It reiterated its position that the Trusteeship Council had served its purpose and that the abolition of the Trusteeship Council was both timely and consistent with the reform process of the Organization.

11. There was an urgent need to strengthen the capacity of the International Court of Justice in view of the great increase in the number of cases submitted to it in recent years. The General Assembly and the Security Council should make greater use of the Court on matters of a contentious nature so as to ensure the best interests of Member States.

12. The proposal to amend rule 103 of the rules of procedure of the General Assembly to enlarge the membership of the bureaux of the Main Committees merited consideration. That would enable every region to be represented and would contribute to increased democratization of the Organization.

13. **Mr. Mohamed** (Sudan) said that his delegation firmly supported the steps taken by the General Assembly over the past two years to address the effects of sanctions, which should be enhanced by employing objective criteria and providing the necessary financial resources to mitigate the hardships facing third States. Many Member States had objected to a narrow and literal interpretation of Article 50 of the Charter that would limit the right of third States to consult the Security Council. The problem lay in the imposition of sanctions without first exhausting other possibilities for the peaceful settlement of disputes and determining that there was a real threat to international peace and security. Sanctions must be subject to a strict time limit.

14. In that respect, reference should be made to the importance of the working paper submitted by the Russian Federation (A/52/33, para. 29). In particular, Sudan endorsed the views in paragraph 5 of that working paper.

15. **Mr. Kerma** (Algeria) said that the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions was of the utmost importance. In recent years, sanctions, which should be used as a last resort, had been imposed with increasing frequency. The resulting problems affected an increasing number of States.

16. General Assembly resolutions 50/51, dated 11 December 1995, and 51/208 provided an excellent basis on which to establish a mechanism for agreement in order to overcome the limitations and drawbacks of the ad hoc approach adopted thus far. His delegation endorsed the statement in the final document of the Ministerial Conference of the Movement of Non-Aligned Countries held on 7 and 8 April 1997 in New Delhi which underscored the need to establish a mechanism of that type that met the legitimate expectations of countries adversely affected by sanctions.

17. It was the direct responsibility of the Security Council to resolve such problems, since it was the organ which imposed sanctions pursuant to Chapter VII of the Charter of the United Nations. He endorsed the proposals by the Secretary-General (A/52/308) calling for the elaboration and formulation of general principles and criteria for objectively evaluating the impact of sanctions on third States. The major difficulties posed by the process of establishing an evaluation mechanism should not interfere with the debate on the matter. His delegation therefore supported the convening by the Secretary-General of an expert group meeting in the first half of 1998 to consider the question of methodology for evaluating the adverse impact of sanctions on third States, which should be attended by as many representatives from the developing countries as possible.

18. With regard to the other proposals concerning the maintenance of international peace and security, his delegation endorsed the many positive elements contained in the proposals by the Russian Federation (A/52/33, para. 29), which the Special Committee should consider in detail.

19. He also noted with interest the proposal by Cuba (A/52/33, para. 59), in particular, the points relating to the democratization of the various United Nations bodies and the transparency of their activities.

20. As to the question of the peaceful settlement of disputes among States, the Special Committee had been discussing useful proposals and suggestions for a long time, but had not achieved any significant results. That

demonstrated the complexity of the issue which, moreover, was dealt with in the relevant provisions of the Charter and many international legal instruments. His delegation did not always support the establishment of new mechanisms in that field, since they might duplicate existing mechanisms or infringe on the freedom of States to select the solutions which they deemed most appropriate. There already were many such instruments, and what was most important was not to increase their number, but rather, to utilize existing mechanisms.

21. He reiterated his delegation's support of the proposal by Portugal to amend rule 103 of the rules of procedure of the General Assembly (A/52/33, para. 133).

22. Rather than leading the debate on all matters relating to the future of the United Nations, the Special Committee had been marginalized and had become an observer rather than an actor in the reform process. The Special Committee definitely could make an effective contribution to the process, particularly with respect to the legal aspects of the reforms.

23. **Mrs. Dickson** (United Kingdom of Great Britain and Northern Ireland) associated her delegation with the statement made by the Netherlands representative on behalf of the States members of the European Union. With regard to the Special Committee's recommendation at its most recent session that the General Assembly should invite Member States and States parties to the Statute of the International Court of Justice to present their observations on the consequences that the increase in the volume of cases before the Court had on its operation, she said that her delegation had no difficulty with the implementation of the recommendation, although it did have some reservations. First, it supported the understanding reached in the Special Committee that the recommendation should have no implications for any change in the Charter of the United Nations or the Statute of the International Court of Justice. The debate should concentrate on practical measures concerning the functioning of the Court which would enable the Court to deal more effectively with its increased caseload within the existing legal framework. The Statute of the Court was satisfactory and subsequent legal changes were not needed just because the Court was busier now than it had been in the past. Secondly, it was essential for the Special Committee to take full account of the views of the Court itself. Its members were acutely aware of the need to ensure that the Court had efficient and effective working practices. The recommendation of the Special Committee that the Court should be invited, if it so desired, to submit its comments on the issue was a sensible one and would ensure that the practical realities of the Court's situation and the views of its judges were given full weight. Thirdly, it was vital that the Court should have appropriate resources to fulfil its tasks adequately.

24. With regard to the work of the Special Committee as a whole, she reiterated her delegation's doubts as to its effectiveness, which had not been lessened by the experience of 1997. Work on the proposal by Portugal to elect three Vice-Chairmen for each Main Committee (A/52/33, para. 133), a useful proposal which her delegation had supported, should be concluded at the current session. The proposal referred to earlier on the International Court of Justice would perhaps not be ripe for discussion at the next session of the Special Committee given the need for States and the Court itself to submit their comments. As to the rest of the debate at the most recent session, with the exception of the discussion of the revised proposal by Sierra Leone (A/52/33, para. 75), on which some interesting ideas had been put forward, discussion generally had been repetitive of ideas expressed at earlier sessions and had been unproductive. Her delegation questioned the need for two weeks to be devoted to the Special Committee's work when much weightier measures, such as the establishment of the Statute for the International Criminal Court, would require so much attention in 1998, and was therefore prepared to work with other delegations towards reducing the time available to the Special Committee in the future.

25. **Mrs. Ladgham** (Tunisia) underscored her delegation's continuing interest in the Special Committee on the Charter ever since it had been established in 1974 to provide an appropriate forum within the United Nations for consideration of proposals submitted by Member States at various sessions of the General Assembly regarding the review of the Charter of the United Nations. In particular, the Committee had been charged with considering all proposals to enhance the effectiveness of the Organization in achieving its objectives, including those which did not require amendments to the Charter.

26. With regard to the revised working paper submitted to the Special Committee by Cuba (A/52/33, para. 59) suggesting that the Special Committee should be involved in the work of the various open-ended working groups dealing with the reform of the United Nations system, her delegation believed that the Special Committee had the obligation to contribute its technical expertise to the reform process, bearing in mind the many initiatives it had undertaken in that regard in the past. The proposal contained very interesting ideas, including the proposal that it should study the cases in which the Security Council had invoked Chapter VII of the Charter and make recommendations on the application of that Chapter, and the suggestion that

studies of a legal nature should be undertaken with respect to Articles 10 to 15 of the Charter, with a view to enabling the General Assembly fully to discharge the role assigned to it. She requested the Special Committee to consider those matters carefully at its next session.

27. The revised working paper submitted by the Russian Federation (A/52/33, para. 29) had the merit of having introduced the highly important concept of the "humanitarian limits" of sanctions. She drew the Committee's attention to General Assembly resolution 51/242, dated 15 September 1977, which took note of the conclusion of the work of the sub-group on an agenda for peace with respect to sanctions and adopted the results of that work which were included in an annex. Paragraph 20 of annex II stated that the concept of humanitarian limits of sanctions deserved further attention with a view to the elaboration of standard approaches. The Special Committee on the Charter was the appropriate forum to conduct that review and elaborate the approaches. The document by the Russian Federation provided a good starting point and she urged the delegation of the Russian Federation to improve it and submit a proposal to the Committee at its next session.

28. She agreed that the General Assembly should adopt the draft resolution submitted by Portugal (A/52/33, para. 133) that was aimed at expanding the bureaux of the Main Committees of the General Assembly to include the five regional groups. That would ensure equal treatment for all regions and would make it possible for the concerns of various regions to be more fully integrated into the work of the Committees.

29. With regard to the recommendation, based on the proposal submitted by Mexico (A/52/33, paras. 123 to 125), that the General Assembly should invite States and the International Court of Justice, if it so desired, to present comments on the consequences that the increase in the volume of cases before the Court had on its operation, she drew attention to the report submitted by the Court to the General Assembly at its fifty-first session (A/51/4); that report had stated that the Court was reconsidering its internal procedures with a view to a more rapid adjudication of pending cases, and had mentioned the deficiencies which the Court was experiencing in relation to computerization. The Court currently had no access to computerized case-law outside the Court, nor did it have access to the information available via computer. Its case-law had not been computerized. The introduction of clerks and computerization would expedite the work of the Court. Because of budgetary restrictions and staff reductions, the Court could not employ sufficient staff. The report concluded that the situation described was seriously prejudicing the work of the Court at a time when its workload had increased considerably. Priority should be given to solving the Court's financial problems, a matter that was not within the purview of the Sixth Committee.

30. With regard to the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions imposed under Chapter VII of the Charter, she recalled that the Sub-group of the Informal Open-ended Working Group of the General Assembly on an Agenda for Peace had concluded that detailed consideration of the sanctions issue should take place in the Sixth Committee at the current session. That question, which was not one of form but of substance, should have priority. The developing countries were the ones most affected by the imposition of sanctions, since their economies tended to depend on exports. Hampering the development of a region or country could have serious consequences for international peace and security. The Security Council imposed sanctions; it should be responsible for solving the problems which third States incurred as a result of sanctions. It was not enough to rely solely on the international financial institutions or other organizations of the United Nations system, which, moreover, were constrained by their respective mandates. The time had come to apply Article 50 of the Charter and to dispense with guesswork. That the cost of sanctions should be borne by one group of countries was contrary to the principle of mutual assistance embodied in Article 49 of the Charter. She supported the proposal of the Twelfth Ministerial Conference of the Movement of Non-Aligned Countries, held at New Delhi on 7 and 8 April 1997, that a fund should be established to provide assistance to third States affected by sanctions.

31. The question of developing a methodology to assess the effects of sanctions on third States, as referred to in the report of the Secretary-General (A/52/308), deserved careful consideration. She supported the Secretary-General's proposal to convene an expert group meeting on the subject, and agreed with other delegations that representatives of third States affected by sanctions should participate in that group, so that its membership would reflect the principle of equitable geographical distribution.

32. **Mr. Gao Feng** (China) said that for many years the Special Committee had considered the question of assistance to third States affected by sanctions as a matter of priority. At the current session, some States still emphasized that assistance to third States affected by the application of sanctions was a legal obligation under the Charter. He had never supported the use of sanctions, which had a negative impact on third States and the lives of their peoples.

Developing countries, moreover, were not the only ones to suffer. The problem could be resolved in two ways: first, by minimizing the use of sanctions and limiting their duration; secondly, by establishing a normal mechanism for consultations between third States affected by sanctions and the Security Council and the provision of assistance to such States under the relevant articles of the Charter. While it was still impossible to provide effective assistance and compensation to the third States affected, the United Nations should offset or ease the effects on them through a variety of sources of economic and financial aid.

33. He had taken note of the revised working paper submitted by the Russian Federation (A/52/33, para. 29). It reflected, objectively and comprehensively, the problems arising from the imposition of sanctions by the Security Council, and could serve as a reference document for further consideration of the question.

34. With regard to the draft declaration on the basic principles and criteria for the work of the United Nations peacekeeping mission and mechanisms for the prevention and settlement of crises and conflicts (A/51/33, para. 128), the guidelines for the work of the United Nations peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts should be a summary of the Organization's experience in that area.

35. The revised proposal submitted by Sierra Leone (A/52/33, para. 75) was helpful and the Special Committee should study it further. The dispute settlement mechanisms established by the United Nations were inadequate; a service such as the one proposed would help to eliminate and contain the escalation of disputes, thus also eliminating and reducing the need for large-scale intervention by the United Nations, including the imposition of sanctions.

36. While the Trusteeship Council had fulfilled its historic mandate, its functions could neither be abolished nor converted without amending the Charter, and a cautious approach was needed. Reform of the United Nations was a complicated project which called for systematic study and discussion in depth. The Special Committee should play a more important role in that undertaking; to that end, States should participate in its work with a positive, realistic and cooperative attitude.

37. **Mr. Bhattarai** (Nepal) said that he shared the general belief that the issue of the implementation of Charter provisions related to assistance to third States affected by the application of sanctions under Chapter VII should continue to be the focus of attention of the Special Committee; in that connection, he drew attention to paragraph 5 (f) of document A/52/308. In the light of the consultations held by the Secretary-General, there was general agreement in principle that an accurate and transparent impact assessment was essential, both to design an appropriate domestic policy response and to seek external assistance in coping with the side effects of sanctions. He endorsed the Secretary-General's recommendation that an ad hoc expert group meeting should be convened in the first half of 1998 (A/52/208, para. 12). The Security Council should reserve the use of sanctions for situations in which all available means of peaceful settlement failed. Article 50 of the Charter, which provided for the right of affected States to consult the Council with regard to a solution of sanctions-related problems, should be revitalized without compromising the Council's capacity to respond effectively to any threat to international peace and security, and affected States should be encouraged to make use of that provision. It was incumbent on the Council to ensure that such consultations were held promptly.

38. Considerable time had been devoted to the issue of the Trusteeship Council. Attention should be given to innovative ideas, such as Malta's proposal that the Trusteeship Council should be converted into a coordinator for the global commons or the common heritage of mankind (A/52/33, para. 119), and the Secretary-General's reform proposals (A/51/950, paras. 84 and 85), which outlined a new concept of trusteeship. He shared the Secretary-General's conclusion that Member States appeared to have decided to retain the Trusteeship Council; its continued formal existence did no harm.

39. **Mr. Gray** (Australia) said that sanctions were imposed by the international community as part of the maintenance of international peace and security for the benefit of all and Member States must look seriously at ways of minimizing their adverse impact on specially affected States. His delegation welcomed the proposals in sections II-IV of the Secretary-General's report (A/52/308). It particularly welcomed those for enhancing the capacity of the relevant departments of the Secretariat and cooperation among them, developing expertise within the Secretariat to assist the Security Council in performing its work more efficiently and assisting third States affected by sanctions. His delegation continued to harbour reservations about establishing a funding mechanism financed from the regular budget and from voluntary contributions for the assistance of affected third States. In the light of the difficult financial circumstances facing the United Nations, those proposals appeared neither viable nor desirable.

40. His delegation attached importance to the timely publication of the *Repertory of Practice of the United Nations Organs* and *Repertoire of Practice of the Security*

Council and welcomed the new steps taken by the Secretariat to expedite their preparation. His delegation encouraged the Secretary-General to continue his efforts to improve the situation, as it shared the view already expressed by other delegations that much remained to be done.

41. He reaffirmed support for Portugal's proposal to amend rule 103 of the General Assembly's rules of procedure (A/52/33, para. 133). There was a need for an enlarged Bureau, given the increase in the workload of the Main Committees and the fairness of having a representative from each of the five regional groups on the Bureau. A similar measure had already been adopted for the subsidiary bodies of the General Assembly.

42. Mexico's proposal concerning the International Court of Justice (A/52/33, paras. 123-125) had merit. Comments on the workload of the Court could be useful in examining means of enhancing its role.

43. **Mr. Danesh-Yazdi** (Islamic Republic of Iran) said the Special Committee was striving to play its proper role in the process of reforming the United Nations and, to that end, might consider certain questions referred to it by other committees of the United Nations. Nevertheless, it was imperative for the Special Committee to harmonize its work with that of other United Nations bodies engaged in the reform process, in order to avoid duplication.

44. The Special Committee was not an appropriate forum to evaluate the usefulness of endeavours within and outside the United Nations system regarding the implementation of Charter provisions relating to assistance to third States affected by Security Council sanctions. The Sixth Committee must arrive at a clear answer to the question whether Article 50 of the Charter obligated the Organization to redress the damages caused to other States by the imposition of sanctions. The arguments for and against those contentions were reflected in the Secretary-General's report (A/52/33, section III.A), without any indication being given of whether it might be possible to escape from that vicious circle. It would therefore be as well to bear in mind the view expressed by the Committee dealing with legal issues at the United Nations Conference on International Organization (San Francisco, 1945), that it was inevitable that, in the course of day-to-day operations, the various organs of the United Nations would interpret such parts of the Charter as were applicable to their respective functions, so that it was not necessary to include in the Charter a provision either authorizing or approving the normal operation of that principle and that, in appropriate circumstances, the General Assembly or the Security Council might ask the International Court of Justice for an advisory opinion. Consequently, the Sixth Committee, equipped with the necessary expertise, was in a position to provide an authoritative interpretation of Article 50 of the Charter or request an advisory opinion from the International Court of Justice. That would undoubtedly pave the way for the adoption of further concrete and institutional measures with regard to what was a legitimate concern of many member States.

45. The issues raised in the Russian Federation's proposals on the basic conditions and criteria for the operations of peacekeeping missions and mechanisms for the prevention and resolution of crises and conflicts (A/51/33, para. 128) were valid and genuine. The time was right for a thorough examination of the sanctions regime, taking into account what the regime was originally intended to achieve and how it had functioned in practice. He endorsed the position expressed in the final document of the twelfth Ministerial Conference of the Movement of Non-Aligned Countries, held in New Delhi on 7 and 8 April 1997. In considering the sanctions system, the following elements should be borne in mind: (a) as sanctions were designed not to be punitive, but to modify a State's behaviour, they should be used only as a last resort when all other options enshrined in the Charter had been exhausted; (b) they should always be implemented strictly in accordance with the provisions of the Charter; (c) the adverse humanitarian impact of sanctions on the most vulnerable segments of the target State should remain the focus of attention; (d) the devastating effects of sanctions on free trade and the right to development were fundamental issues that required sober assessment; (e) sanctions could not and should not be enforced for an unlimited period and must be lifted as soon as their objective of removing threats to international peace and security was realized; (f) the United Nations was entrusted with a clear mandate to apply coercive economic measures only in specific situations where there was a threat to, or breach of, peace. Unilateral sanctions ran counter to the will of the international community, and the General Assembly had repeatedly denounced economic coercion as a means of achieving political goals. The Special Committee on Peacekeeping Operations was the most appropriate forum to consider the proposal of the Russian Federation.

46. Iran was fully committed to the principle of the peaceful settlement of disputes and commended the Special Committee's efforts in that regard. However, it should be emphasized that the principle of free choice of means, as laid down in Article 33 of the Charter, was a fundamental principle which should always be borne in mind in dealing with any proposal on the question.

47. His delegation had carefully studied the proposal submitted by Guatemala (A/52/33, para. 101) but was not

convinced of the inadequacy of the procedures for the settlement of disputes embodied in the constituent instruments of the international organizations or of requesting advisory opinions from the International Court of Justice. Furthermore, overcoming the substantive and procedural difficulties of amending the Statute of the Court would not be easy.

48. While supporting the approach adopted at the fiftieth session of the General Assembly regarding the Trusteeship Council, his delegation was of the view that the Council, despite its historical importance, did not conform to contemporary realities and should not be entrusted with an even more important mandate such as coordination of the global commons. It was evident that any change to the membership or mandate of the Council would require revision of the Charter. Such an amendment should be made as an integral part of the United Nations reform process. Such decisions should not be taken hastily.

49. The current workload of the Main Committees fully justified an amendment to rule 103 of the rules of procedure of the General Assembly, as proposed by Portugal (A/52/33, para. 133) and would also contribute to the realization of the principle of equitable geographical distribution.

50. **Ms. Flores Liera** (Mexico) expressed concern about the impact of the United Nations current financial situation on the work of the International Court of Justice. At the 1997 session of the Special Committee on the Charter, that concern had prompted her delegation to call for an examination of practical ways of strengthening the Court and increasing its capacity to contribute to the peaceful settlement of disputes and to peacekeeping. The recommendation contained in paragraph 130 of the Committee's report (A/52/33) was an important step in that direction.

51. She welcomed the fact that the Special Committee had recommended to the General Assembly the draft resolution sponsored by Portugal concerning the amendment of rule 103 of the General Assembly's rules of procedure (A/52/33, para. 133).

52. She also noted with satisfaction the improved communication between institutions of the United Nations system about implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions. With regard to the development by the Secretariat of a methodology for assessing the consequences actually or potentially incurred by third States as a result of sanctions, Mexico welcomed the suggestion contained in paragraph 12 of the Secretary-General's report (A/52/308) that an expert group meeting should be held on that topic. Meanwhile, the Committee should continue its consideration of the implementation of Article 50 of the Charter.

53. Sanctions were an exceptional mechanism that should be applied only when all other peaceful means for settling a dispute had been exhausted. It was also important that the aims to be achieved by the imposition of sanctions should be clearly defined before they were imposed. An assessment mechanism was required, enabling the application of sanctions to be supervised and decisions taken as to when they should be modified, adapted or lifted, depending on the results achieved. The working paper submitted by the Russian Federation (A/52/33, para. 29) was most interesting in that regard.

54. The Secretariat should be thanked for its efforts in updating the Repertories of the Practice of United Nations organs and of the Security Council. Her delegation took note of the Secretariat's recommendations.

55. Her delegation welcomed the revised working paper submitted by Cuba (A/52/33, para. 59).

56. **Ms. Baykal** (Turkey) welcomed the Secretary-General's report on the implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions (A/52/308). The problems faced by third countries should be dealt with in a working group of the Special Committee. Taking into account the proposals made by the Secretary-General on developing a methodology to be approved by Member States, there were strong grounds for continuing to have a working group on the topic. It would be useful for the resulting methodology to be reported to the Special Committee for discussion. Experts from countries adversely affected by sanctions should participate in the ad hoc group to be established to consider the topic.

57. There should be more transparency in the work and practices of the Security Council sanctions committees and it would be useful if there could be briefings for interested States after informal meetings of the committees.

58. As a third State adversely affected by the application of sanctions, Turkey had applied to the sanctions committees in accordance with Article 50 of the Charter in order to alleviate their impact. The time had come to establish a mechanism to make Article 50 operational. It was not constructive or realistic to interpret the Article narrowly or to involve only the international financial institutions in the solution of a given problem.

59. Her delegation considered that the two documents submitted to the Special Committee at its 1997 session by the Russian Federation (A/52/33, para. 29 and sect. III.B)

contained useful elements that could be discussed in the Special Committee without duplicating previous work. The Secretary-General's report on the reform of the United Nations (A/51/950, sect. V) emphasized some issues that also appeared in the document of the Russian Federation relating to sanctions (A/52/33, para. 29). She particularly drew attention to paragraph 108 of document A/51/950.

60. With regard to the other proposals before the Special Committee, her delegation supported the draft resolution submitted by Portugal to amend rule 103 of the rules of procedure of the General Assembly (A/52/33, para. 133).

61. The Special Committee should continue to meet at least twice a year; it should not be dependent on other forums to consider issues that it judged appropriate. It could take up legal issues, especially ones relating to the revision of the Charter emanating from the reform process.

62. **Mr. Elaraby** (Egypt) reiterated his country's request to the Secretary-General to conclude the preparation of guidelines on the technical procedures to be followed in the relevant departments of the Secretariat to provide the Security Council and its bodies with better information and rapid assessments of the real or potential effects of sanctions on third States. The Secretary-General should submit the guidelines to the General Assembly for approval as soon as possible. Once they had been approved, the Special Committee would be better placed to assess requests for assistance from third States affected by the application of sanctions.

63. Another important issue was the correct application of Article 31 of the Charter. The Secretary-General's report (A/50/361) was full of examples of the correct way to apply that Article and he appealed to the Security Council, before imposing sanctions on a country, to consult neighbours or trading partners that might be affected.

64. The problem of damage incurred by third States affected by the application of sanctions would not be resolved until it was considered as a whole. He drew attention to General Assembly resolution 51/242, of 15 September 1997, which noted the tendency to treat the problem in a fragmentary way and which specifically recommended that the Security Council should determine the time-frame of sanctions, at the same time taking into account the objectives of such sanctions, avoiding unnecessary suffering to the civilian population of the target party or of neighbouring countries affected and precisely defining the steps required from the target country for the sanctions to be lifted.

65. The document submitted by the Russian Federation (A/52/33, para. 29) contained positive proposals for the balanced application of sanctions so as not to cause economic damage to third States or to inflict unnecessary suffering on the civilian population. The ideas contained in the document should be thoroughly studied and a decision taken on the precise form that the document should take.

66. With regard to the other working paper submitted by the Russian Federation (A/51/33, para. 58), his delegation believed that the Special Committee should give it careful consideration at its next session.

67. Egypt welcomed the revised working paper submitted by Cuba (A/52/33, para. 59), which would complement the work of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council.

68. His delegation also welcomed the revised proposal submitted by Sierra Leone (A/52/33, para. 75), which would make it easier to implement Chapter VIII of the Charter; disputes could thus be settled at the regional level without the need to turn to the Security Council. The resolution on the Special Committee for adoption at the current session should express gratitude to Sierra Leone for having prepared the document and should invite other countries to adopt similar measures to resolve disputes at as early a stage as possible.

69. All the proposals made with regard to the future of the Trusteeship Council should be exhaustively studied within the framework of the revision of the Charter.

70. His delegation supported the recommendation that rule 103 of the rules of procedure of the General Assembly should be amended (A/52/33, para. 133).

71. **Mr. Dos Santos** (Mozambique) said that peace and security should be attained, in the first place, through the measures stipulated in the Charter, including resort to the International Court of Justice, and also that regional organizations should be encouraged to play a more decisive role in the implementation of preventive and enforcement measures.

72. While recognizing the need for and efficiency of sanctions as a means of enforcing measures aimed at maintaining or restoring international peace and security, he said that, in most cases, the implementation of sanctions had adverse economic, social and humanitarian effects on neighbouring countries or third countries. The burden thus imposed on third States should be shared equally by the whole international community. It was necessary to establish

a permanent mechanism to deal effectively with that problem and ensure an adequate balance between the need to apply sanctions and the need to minimize adverse effects on third States, particularly developing countries and those with fragile economies.

73. He welcomed the Secretary-General's report (A/52/308) on the implementation of General Assembly resolutions 50/51 and 51/208 and the proposal to convene an ad hoc expert group meeting in the first half of 1998.

74. The Special Committee and the Sixth Committee should continue to study the issue of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions, and should build on discussions that took place in other forums, such as the Working Group on an Agenda for Peace of the General Assembly.

75. The revised working paper submitted by the Russian Federation (A/52/33, para. 29) raised well-founded concerns which his delegation shared and which deserved serious consideration.

76. The revised proposal submitted by Portugal on the amendment to rule 103 deserved full support in view of the solid arguments put forward. Its implementation would further strengthen the principle of balanced regional representation in all United Nations bodies.

77. The proposals on the Trusteeship Council needed to be further studied in order to reach a consensual decision.

78. Lastly, his delegation supported the recommendation of the Special Committee on the proposal submitted by Mexico (A/52/33, para. 130).

79. **Mrs. Sinjela** (Zambia) said that she attached great importance to the issue of the implementation of the provisions of the Charter relating to the situation of third States affected by the imposition of sanctions. Zambia had been one of the countries affected by the imposition of sanctions on southern Rhodesia, the effects of which could still be felt. At the time there had been no adequate mechanisms or guidelines, and that was still the case. Her delegation disagreed with the view that the right granted in Article 50 to affected third States to consult the Security Council with regard to a solution of the problems resulting from the imposition of sanctions was an end in itself. Without a proper mechanism for setting out the means of providing assistance to the affected States, consultations with the Security Council did not in themselves solve the problems. One way to solve that problem would be to establish a trust fund to assist the affected States. No attempt should be made to pass on the issue to other forums, such as the international financial institutions. Any assistance provided by the latter should supplement the efforts of the United Nations and Security Council. That assistance should be embodied in a bilateral agreement between the affected State and the financial institution.

80. She welcomed the Secretary-General's initiative to develop a methodology to assess the consequences of the application of sanctions, and, in that regard, supported the role being played by the Department of Economic and Social Affairs and the initiative to convene a meeting of experts.

81. With regard to the proposal by Sierra Leone on the establishment of a preventive mechanism, she did not think the latter was necessary. Rather, States should be encouraged to use existing mechanisms for the peaceful settlement of disputes.

82. The abolition of the Trusteeship Council would be premature, and to turn it into a coordinator of the global commons would not be useful. Those issues were already being dealt with in other forums.

83. She supported the proposal by Portugal to amend rule 103 of the rules of procedure of the General Assembly for the reasons given in paragraphs 134 and 135 of document A/52/33.

84. **Ms. Cueto** (Cuba) stressed the current and future importance of the work of the Special Committee on the Charter because of its universal nature and its participation in a process of reform of the Organization based on the principles of the Charter.

85. The Special Committee on the Charter should continue to give priority to the issue of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions, in order to speed up the search for solutions in that area. The effective implementation of Article 50 of the Charter and the establishment of a specific, accountable and effective mechanism for compensating third States was a widely shared demand of the developing countries, as spelled out in the final document of the Ministerial Conference of the Movement of Non-Aligned Countries, held in New Delhi on 7 and 8 April 1997.

86. With regard to the Secretary-General's proposal to convene a group of experts to establish the methodology for assessing the effects of sanctions, she believed that the work should be carried out largely by experts from the developing countries, particularly those which had experienced the effects of sanctions imposed by the Security Council. The Council, which was directly responsible for all the effects resulting from sanctions it imposed pursuant to Chapter VII

of the Charter, should take responsibility for analysing and making good for the consequences of its acts and decisions. The Committee should study more carefully the working paper submitted by the Russian Federation (A/52/33, para. 29).

87. She supported the proposal submitted by the Russian Federation concerning peacekeeping operations (A/51/33, para. 128). Notwithstanding the authority and mandate of the Special Committee on Peacekeeping Operations, the Special Committee on the Charter could contribute to the legal analysis of the subject. The peaceful settlement of disputes should be one of the priority areas for the work of the Committee.

88. Her delegation had considered the proposal submitted by Sierra Leone (A/52/33, para. 75), but believed that the right of States to choose freely the means for the peaceful settlement of their disputes, established in Article 33 of the Charter, was a cardinal principle of international law that should not be subject to procedural restrictions or rigid mechanisms, however innovative.

89. Her delegation supported the proposals submitted by Portugal on changing rule 103 of the rules of procedure of the General Assembly (A/52/33, para. 133), as it fully subscribed to the principle of equitable geographical representation and to the aim of promoting the democratization of the Organization.

90. With regard to the future of the Trusteeship Council, it would be counter-productive and premature to decide to abolish or replace it without first considering the political and financial effects.

91. The Special Committee could be very useful in examining many subjects of general interest to the Organization, without encroaching on the areas of responsibility or duplicating the mandates of other bodies or working groups, but rather serving the main purpose for which it had been set up, as a subsidiary body of the General Assembly with the legal capacity and necessary political vision to analyse in depth the Charter of the United Nations. For that reason, her delegation supported the proposals to increase the interaction between the Special Committee on the Charter and other working groups in the current process of reform and revitalization of the Organization.

92. She took note of the proposal submitted by the Secretary-General (A/52/317) to merge the *Repertory of Practice of United Nations Organs* and the *Repertoire of Practice of the Security Council*, but believed that more time was needed to study the substantive and financial implications of that proposal.

93. With regard to the revised proposal submitted by her delegation entitled "Strengthening of the role of the Organization and enhancing its effectiveness" (A/52/33, para. 59), she was grateful for the support of the other delegations and said that she would collaborate with those who supported the objective of strengthening the role of the Organization in maintaining a real international peace and security that was not subject to the political interests of any State, and warned that the work of the Special Committee on the Charter should not be undervalued.

94. **Mr. Yelchenko** (Ukraine) said that some progress had been made in the Special Committee's discussions on assistance to third States affected by the application of sanctions pursuant to Chapter VII of the Charter, although it was a complex issue and there were differences of opinion among delegations. If tangible results were to be achieved, the Special Committee would have to adopt practical measures. Ukraine had paid a high price for strictly and consistently applying sanctions, which had aggravated its economic situation at the most critical point of its transitional period and which threatened to have long-lasting effects. He supported the proposal by India to set up a working group of the Sixth Committee to consider the question (A/C.6/52/SR.5). The maintenance of international peace and security at times required certain sacrifices on the part of the international community or particular States. Still, it was extremely unfair that some States should be disproportionately affected while others, with an equal interest in the application of the sanctions regime, suffered no substantial after-effects and might even benefit from the isolation of their competitors. It was necessary to come up with specific proposals that would lead to the creation of a system for the fair distribution of unavoidable economic losses. Sanctions were no substitute for established and recognized measures for settling disputes, and should only be applied when those means had failed to resolve the situation. The issue should be considered by the organs of the United Nations and within the United Nations system. Any attempt to address the issue on the basis of the strict interpretation of the term "consult" in Article 50 of the Charter, or to assign primary responsibility for assisting third States to institutions outside the United Nations system, would only make the provisions of Article 50 inoperative and would undermine the aims of the sanctions and the principle of their strict observance. It was not enough to adopt measures to enhance the effectiveness of the Secretariat's activities or to develop a uniform methodology for assessing losses. It was necessary to establish a permanent and reliable legal mechanism to address, automatically and without delay, the problems relating to the

implementation of Article 50. His delegation considered that the prompt adoption of effective measures under Article 50 was a precondition for ensuring the overall effectiveness of the sanctions system without undermining the powers of the Security Council. He stressed the importance of creating a mechanism for consultations between the Council and the countries that might be affected by sanctions, and thought it was reasonable to create a standing Security Council sanctions committee. That committee should carry out its activities in a transparent way and would be responsible for carrying out research into the economic and socio-political effects of sanctions, coordinating the relevant activities in the United Nations Secretariat, monitoring observance of the sanctions regime and working out ways of minimizing collateral damage to third States. He noted with interest the proposals in section III of document A/52/308, particularly the proposal to convene an ad hoc expert group meeting in the first half of 1998 (A/52/308, para. 12) to explore innovative and practical measures of assistance that could be provided to the third States affected (A/52/308, para. 33). He was encouraged by the support of the Council of Ministers of the European Union for General Assembly resolution 50/51 and other activities undertaken by other relevant organizations within the United Nations system (A/52/308, para. 31), and hoped that the European Union would take further steps in that direction.

95. His delegation agreed with the inclusion in the agenda of the Special Committee of consideration of the proposals to enhance the role of the International Court of Justice (A/52/33, sect. VI.A), without prejudice to the "optional clause" in Article 36, paragraph 2, of its Statute. Before any conclusions were drawn or recommendations made, a thorough study should be carried out of the idea of extending the competence of the Court to allow it to consider disputes between States and international organizations, as well as their legal and practical implications.

96. His delegation fully supported the proposal by Portugal on amending rule 103 of the rules of procedure of the General Assembly (A/52/33, para. 133).

97. **Mr. Obeidat** (Jordan) said that the end of the cold war had left its mark on the work of the Security Council, which was applying sanctions more frequently as a means of dispute settlement. That had adverse effects on third States, as had been foreseen in Articles 49 and 50 of the Charter, which also provided means for overcoming them. After pointing out the importance of General Assembly resolutions 50/51 and 51/208 and the report of the Secretary-General (A/52/308), he said that much remained to be done and that the letter and spirit of Articles 49 and 50 should be made a reality through the creation of a permanent mechanism that did not rule out "compensation". The essential elements of a sanctions regime were: (a) the need for international cooperation to mitigate the adverse effects of sanctions before they were imposed, during their implementation and after they had been lifted; this concept called for a permanent trust fund to be set up; (b) a functional interpretation of Chapter VII of the Charter, including Article 50 and the role of the Security Council; (c) respect for the "humanitarian limits" of sanctions so that the life and health of the civilian population were not endangered; (d) removal of sanctions as soon as they had achieved their objectives, so as to reduce their unwanted humanitarian and adverse economic effects. He welcomed the proposal to create an ad hoc group of experts (A/52/308, para. 12).

98. His delegation noted with interest the proposal made by Cuba on strengthening the role of the Organization (A/52/33, para. 59), and supported the proposal by Portugal on amending rule 103 of the rules of procedure of the General Assembly (A/52/33, para. 133).

The meeting rose at 1 p.m.